

of foreign participation if it determines that such higher levels of foreign ownership are not inconsistent with the public interest. Under the Commission's *Foreign Participation Order*,<sup>48</sup> the Commission will deny an application if it finds that more than 25 percent of the ownership of an entity that controls a common carrier radio licensee is attributable to parties whose principal places of business are in non-WTO member countries that do not offer effective competition opportunities to U.S. investors. The Commission looks behind nominal share ownership to determine the principal place of business, nationality, or "home market" of the underlying investors through a multi-level analysis.<sup>49</sup>

In the Merger Applications, Verizon Wireless seeks to have the Commission accept a demonstration of its entitlement to a Section 310(b)(4) public interest determination based on methodology that the Commission has expressly found to be inadequate for any entity other than Verizon Wireless to demonstrate the percentage of non-U.S. investment or to meet the "principal place of business" test to determine the nationality or "home market" of investors. Verizon Wireless bases its entitlement to a Section 310(b)(4) public interest determination on a tabulation of shareholder addresses for Vodafone and Verizon, the partners that constitute Cellco Partnership d/b/a Verizon Wireless, in lieu of the sample analysis approach that the Commission requires for publicly held companies when the citizenship of the holders of widely dispersed shares is unknown. As shown below, this special Verizon-only methodology uses an entirely different definition of "foreign ownership" than the definition the Commission enforces against other applicants. The Commission cannot accept the Verizon Wireless showing without (1)

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<sup>48</sup> *Market Entry and Regulation of Foreign Affiliated Entities*, IB 95-22, Report and Order and Order on Reconsideration, 12 FCC Rcd 23,891, 23,946 ¶ 131 (Nov. 26, 1997) [hereinafter *Foreign Participation Order*].

expressly acknowledging that it has overruled its longstanding policy and long line of decisions rejecting shareholder addresses as a valid means for applicants to ascertain the citizenship of shareholders to demonstrate compliance with Section 310(b), and (2) allowing all applicants subject to Section 310(b) in the services it regulates to adopt the liberalized definition of "foreign ownership" embodied in the Verizon Wireless approach.

Verizon Wireless asserts that the Commission need not examine the foreign ownership of Cellco Partnership partners Vodafone Group plc ("Vodafone") and Verizon because, according to Verizon Wireless, the Commission approved a Section 310(b)(4) showing by Verizon Wireless in 2000<sup>50</sup> and "[n]o material changes have occurred in Verizon Wireless' foreign ownership since that authorization was granted."<sup>51</sup> To support its key assertion of "no material change" in the intervening eight years, Verizon Wireless relies upon a filing made on April 8, 2008, in WT Docket No. 07-208, a copy of which is attached hereto as Exhibit 2 (the "April 2008 Letter"). In the April 2008 Letter, however, Verizon Wireless assessed the foreign ownership of both Verizon and Vodafone based on "registered addresses" (that is, street addresses) of registered owners and available owner addresses of beneficial owners, an approach that the Commission has expressly, definitively, and consistently rejected for everyone but Verizon Wireless.

The Commission expressly rejected its use of "registered addresses" or "owner's addresses" as a basis for determining citizenship of shareholders for purposes of a Section

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<sup>49</sup> See, e.g., *In re Applications of Verizon Commc'ns Inc. and América Móvil, S.A. DE CV*, Memorandum Opinion and Order, FCC 07-43, 22 FCC Rcd 6195, 6217 (Com'n, rel. March 26, 2007) [hereinafter "*América Móvil*"].

<sup>50</sup> See: *In re Applications of Vodafone Airtouch Plc and Bell Atlantic Corporation*, Memorandum Opinion and Order, 15 FCC Rcd 16,507 (WTB and IB, rel. Mar. 30, 2000).

<sup>51</sup> Merger Applications at 52.

310(b)(4) public interest determination most recently in its 2007 decision in *América Móvil*, *supra*. América Móvil, like the partners of Verizon Wireless, was a publicly held corporation with widely dispersed stockholdings. América Móvil sought to have the Commission “infer that the citizenship of the company’s beneficial owners typically will correspond to: (1) the registered addresses of stockholders that have taken possession of their stock certificates; and (2) the addresses of custodian banks and brokers that hold shares for the more numerous owners that have chosen not to possess the stock certificates.”<sup>52</sup> The Commission, however, flatly refused: “[w]e decline, based on the record in this proceeding, to change the Commission’s precedent by accepting street addresses of stockholders and banks as an indicator of the citizenship of beneficial owners.”<sup>53</sup>

América Móvil contended that, in view of its examination of the registered addresses of its shareholders, there was no need for a survey or other inquiry to demonstrate the nationality of the holders of its stock. The Commission disagreed:

The Commission has never held that a common carrier radio licensee or applicant (or its direct or indirect controlling U.S. parent company) is relieved of the obligation to *ascertain and periodically survey the citizenship of its direct or indirect shareholders under section 310(b) of the Act* simply because it has determined that it is primarily owned and controlled by U.S. citizens or citizens of another WTO Member country. The obligation to monitor its shareholdings applies regardless of whether the ultimate controlling parent of the licensee is organized in the United States or, in the case of a common carrier licensee, in another WTO Member country where the ultimate parent has its principal place of business and for which the licensee has received a foreign ownership ruling under section 310(b)(4). In addition, the obligation applies to all stockholders not simply the controlling block.<sup>54</sup>

The Commission eventually was able to grant the América Móvil application with extensive conditions, based on a finding that the shares analyzed using shareholder “registered

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<sup>52</sup> *América Móvil*, *supra*, at 6222-23.

<sup>53</sup> *Id.*

<sup>54</sup> *Id.* at 6222 (footnote omitted; emphasis added).

addresses” were almost all non-voting shares and that more than 93 percent of the voting rights were held by a trust controlled by a single family. Those conditions are not present, of course, for Verizon and Vodafone.<sup>55</sup>

Petitioners acknowledge that, in its recent decision approving Verizon Wireless’s acquisition of Rural Cellular Corporation, the Commission permitted Verizon Wireless to demonstrate its qualifications under Section 310(b)(4) using registered and beneficial owners’ street addresses of record “in the special circumstances of the companies concerned.”<sup>56</sup> The “special circumstances” of applicants with widely dispersed public shareholdings, however, are fully addressed through the Commission’s longstanding policy of permitting public companies to establish their foreign ownership through statistically valid sample surveys. The Commission cannot change its current policy rejecting shareholder street addresses to establish a new definition of “foreign ownership” under Section 310(b) just for Verizon Wireless without overruling *América Móvil* and acknowledging that all applicants in all services may use the same definitions of “foreign ownership” that Verizon Wireless seeks to use here. Indeed, the Commission cannot otherwise reconcile this change with its recently-released Report and Order and Third Further Notice of Proposed Rulemaking in MB Docket No. 07-294 (“*Diversity*

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<sup>55</sup> Verizon Wireless alleges that its approach to assessing the nationality of its shareholders is “similar” to that used by Mobile Satellite Ventures Subsidiary LLC in *Mobile Satellite Ventures Subsidiary LLC and SkyTerra Commc’ns, Inc.*, Order and Declaratory Ruling, FCC 08-77 (Com’n, rel. March 7, 2008) [hereinafter “*MSV/ST*”]. See April 2008 Letter, at note 5. If the information provided to the Commission in *MSV/ST* was derived from “registered addresses,” it is obvious from the decision that the Commission was not aware of it. The decision in *MSV/ST* neither refers to information derived from “registered addresses” nor indicates in any way that the Commission has altered its express decision in *América Móvil* to reject the use of “registered address” information. To the contrary, the *MSV/ST* decision cites *América Móvil* with approval. See *MSV/ST*, *supra*, at 14, ¶ 25, note 129.

<sup>56</sup> *Verizon Wireless-RCC Order*, ¶ 149.

Order”), now on reconsideration.<sup>57</sup> In the *Diversity Order*, the Commission rejected a proposal by 29 organizations constituting the Diversity and Competition Supporters (collectively “DCSs”) and a broadcaster coalition to open new financing resources for SDBs by relaxing existing restrictions on foreign ownership, using its authority under Section 310(b)(4). The Commission declined to adopt the proposal, first, because it saw relaxation of foreign ownership restrictions as “an extraordinary step” and, second, because taking that step would require “a significant rulemaking proceeding to examine this issue in greater depth.”<sup>58</sup> Having rejected any liberalization of its foreign ownership standards and policies for SDBs, the Commission cannot reasonably accede to a new liberalized standard that applies only to Verizon Wireless.<sup>59</sup> As shown below, however, that is precisely what Verizon Wireless seeks.

Verizon Wireless’s approach to its Section 310(b)(4) showing amounts to a request that the Commission apply to Verizon an entirely different substantive standard for what constitutes foreign ownership under Section 310(b) than the one the Commission applies to potential SDB

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<sup>57</sup> *In re Promoting Diversification of Ownership in the Broad. Servs.*, Report and Order and Third Further Notice of Proposed Rulemaking, MB Docket No. 07-294, 23 FCC Rcd 5922 (rel. March 5, 2008), *recon. pending*.

<sup>58</sup> *Id.* at 5949.

<sup>59</sup> Under Congressional and Commission policies, the Commission has an obligation to relieve regulatory burdens on SDBs and other small businesses. It flies in the face of those policies for the Commission to provide a behemoth like Verizon Wireless with its own special liberalized procedures and its own special liberalized interpretation of the governing statute, while denying that flexibility to socially disadvantaged small businesses. *See e.g., Regulatory Flexibility Act*, 5 U.S.C. §§ 601-612 (2007); *Promoting Diversification of Ownership in Broadcast Services*, 23 FCC Rcd 5922 (2008); *Wireless E911 Location Accuracy Requirements*, 22 FCC Rcd 20105, ¶ 11 (2007); *Service Rules for the 698-746, 747-762 and 777-792 MHz Bands*, 22 FCC Rcd 8064, ¶ 53 (2007), *Review of the Emergency Alert System*, 19 FCC Rcd 15775, ¶ 45 (2004). Indeed, the Small Business Paperwork Relief Act of 2002 directed federal agencies to “make efforts to further reduce the information collection burden for small business concerns. . . .” 44 U.S.C. § 3506(c)(4). Applying reduced information collection burdens to Verizon while continuing to impose far more onerous requirements on small businesses thus contradicts Commission and Congressional policy.

investors and other smaller companies that compete with Verizon Wireless and its affiliates in the media and telecommunications marketplace. For other applicants, the Commission considers “all relevant ownership interests up the vertical chain including ‘even small investments in publicly traded securities.’”<sup>60</sup> Thus, as the Commission’s *Foreign Ownership Guidelines* and the instructions to the Commission’s broadcast application forms make clear, the determination of an investor’s foreign ownership under existing Commission policy requires, among other things, analysis of whether a U.S. entity is in fact a subsidiary of a foreign entity, whether a corporation organized under one set of national laws is owned and voted by persons or entities of a different nationality, and whether all limited partners or LLC members of both direct and indirect investors are “insulated” or not.

Through application of these current policies, the interest of an investor or shareholder with a “registered address” in the United States or in a WTO-member nation nevertheless may be classified as foreign or non-WTO because of the nationality of underlying investors, or even the nationality of a single minority indirect investor in the ownership chain.<sup>61</sup> The burden of obtaining this information precludes many sources of capital for potential SDBs. Under the test Verizon Wireless seeks to apply, Verizon Wireless not only would not analyze foreign ownership up the ownership chain, but would not even be required to identify the citizenship of

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<sup>60</sup> *Foreign Ownership Guidelines*, International Bureau, DA 04-3610, 19 FCC Rcd 22612, 22625 (rel. November 17, 2004) [hereinafter “*Foreign Ownership Guidelines*”], citing *Foreign Participation Order*, *supra*, 12 FCC Rcd at 23941, ¶ 115. The Commission has taken the position that these standards apply “even when the alien’s ownership interest in non-influential in nature.” *Foreign Ownership Guidelines*, at 22625 n.29 (citing *Wilmer & Scheiner II*, 1 FCC Rcd 12, ¶ 7 (1986)).

<sup>61</sup> For example, under the Commission’s current interpretation of Section 310(b), as the instructions to the Commission’s broadcast assignment form, FCC Form 314, make clear, a single non-insulated non-U.S. limited partner with a fraction of a percent interest in an investor can require that an investor be treated as entirely foreign, even if 99 percent of its capital is

the first level registered owner or first level beneficial owner. Indeed, it would simply rely upon a street address. Verizon Wireless does not even purport to have treated as "foreign" or as "non-WTO" shares that it would have reason to know should be so classified from the identify of the shareholder, so long as the shareholder had a street address in the U.S. or a WTO-member nation. Under this approach, for example, any shares of Verizon owned by Vodafone, a U.K. company, would be treated as entirely U.S.-owned, so long a Vodafone held the share through an affiliate with a U.S. street address. If Verizon Wireless can meet its Section 310(b)(4) by relying on the "registered addresses" of shareholders and immediate beneficial owners, it is not being held to the same legal standard that the Commission applies to its competitors or to SDBs seeking capital for telecommunications and broadcast investments.

The mere number of public shareholders in Vodafone and Verizon, moreover, cannot justify the approach that Verizon Wireless urges on the Commission. As Verizon Wireless acknowledges and as the *Foreign Ownership Guidelines* prescribe, the Commission traditionally expects that companies with widely dispersed shareholdings will conduct stock ownership surveys using a statistically valid sample of shares outstanding.<sup>62</sup> The required sample size for a valid sample survey is not linearly related to the size of the population being sampled, and large populations may be assessed with small random samples. Given that the survey would cover only the extent to which sampled shares (1) are U.S.-owned or foreign-owned and, (2) for foreign owned shares, have WTO or non-WTO ownership, the size for a valid sample would be quite small in relationship to the total shares of Verizon and Vodafone outstanding. In light of the size of the transaction proposed in the Merger Applications, compliance would entail a far

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provided by U.S. individuals and the non-insulated foreign partner has no voting or control rights. See FCC Form 314, Instructions, page 8, Item 9.

<sup>62</sup> See also FCC Form 314, Instructions, page 8, Item 9.

more reasonable burden than that which the Commission routinely imposes on a socially disadvantaged business with multiple private investors. Verizon Wireless thus could have followed the *Foreign Ownership Guidelines* and selected a statistically valid sample of Verizon and Vodafone shares to analyze. Verizon Wireless has made no showing that the necessary sample size for a valid survey would have imposed burdens on Verizon Wireless materially different from those of socially disadvantaged businesses and other applicants that, unlike Verizon Wireless, are required to analyze the foreign ownership through multiple levels and use a far broader definition of "foreign ownership." Using a valid random sample of its shares outstanding, Verizon Wireless could have analyzed the ownership and control of those sample shares in the same depth that the Commission requires for its smaller would-be competitors and for SDBs. Verizon Wireless then would have faced the same risk as those smaller competitors and SDBs that ownership information or insulation status for some investors would be unavailable or denied to it, or that some investors with "registered addresses" in the United States or a WTO member nation would turn out to be owned or controlled in whole or in part in a way adverse to the grant of a Section 310(b)(4) determination.<sup>63</sup> Applicants other than Verizon Wireless that provided only investors' street addresses as the basis for compliance with Section 310(b) would have those interests treated as "unidentifiable foreign interests from non-WTO member countries."<sup>64</sup>

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<sup>63</sup> For example, a single non-insulated limited partner at a distant level can require that a sample share be treated as foreign owned and controlled. See FCC Form 314, Instructions, at page 8, Item 9; *Foreign Ownership Guidelines*, *supra*, at 22628 (the multiplier can be used to calculate foreign voting interests held in a parent company through an intervening limited partnership only if it can be demonstrated that any foreign investor in the limited partnership "effectively is insulated from active involvement in partnership affairs").

<sup>64</sup> See *Foreign Ownership Guidelines* at 22624.



By relying upon the "registered addresses" of Verizon and Vodafone shareholders under a special rule that only applies to it, Verizon Wireless seeks to ignore and bypass the very Commission rules and principles that thwart access of SDBs to capital and that the Commission refused to alter in its *Diversity Order*. The standard under the Verizon "special rule" permits Verizon Wireless to treat shares as entirely U.S. owned and controlled based on a "registered address" even if the shareholder is known to Verizon Wireless to be organized under the laws of a non-WTO foreign nation and entirely owned and controlled by citizens of non-WTO nations or by the sovereign wealth funds of those nations. If, in the *Diversity Order*, the Commission had granted SDBs the same privilege, it would have liberalized its foreign ownership policies to a much greater extent than it would have by granting the very modest relief that the DSC commenters sought. SDBs seeking to use foreign capital thus could have used indirect foreign capital, provided that either the registered owner or the immediate beneficial owner of a share of an SDB's stock was an entity with a street address in the United States, such as a U.S. corporation or a U.S. limited liability company, without regard to indirect foreign ownership or control.

Petitioners submit that it is unreasonable for the Commission to apply one interpretation of "foreign ownership" under Section 310(b) to Verizon Wireless and another, stricter, definition of the same statutory provision to those seeking to compete with Verizon Wireless. Similarly, the basic definition of what constitutes "foreign ownership" under Section 310(b) must be uniform across the Commission services to which Section 310(b) applies. If the Commission requires SDBs and other small businesses to analyze the citizenship of all of their investors through multiple ownership levels, it must require Verizon Wireless to perform the same analysis with a statistically valid sample of the outstanding stock of its partners. If the Commission

instead permits Verizon Wireless categorically to presume the citizenship of its investors from street addresses without further analysis, it should permit SDBs and other small businesses to do the same. Having just entirely rejected any relaxation of foreign ownership policies whatsoever even for the supposedly priority goal of providing additional opportunity for SDB involvement in Commission-regulated industries, it would be arbitrary and capricious for the Commission, just months later, to affirm a special and highly liberalized interpretation of Section 310(b) that applies only to Verizon Wireless and is denied to would-be new market entrants and SDBs seeking to compete with Verizon Wireless in the media and telecommunications marketplace.<sup>65</sup>

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<sup>65</sup> *Melody Music, Inc. v. FCC*, 345 F.2d 730 (D.C. Cir. 1965) (when the Commission makes contemporaneous decisions according different treatment to apparently similarly situated applicants, it must explain why it has treated the applicants differently); *Green Country Mobilephone, Inc. v. FCC*, 765 F.2d 235 (D.C. Cir. 1985) (“We reverse the Commission not because the strict rule it applied is inherently invalid, but rather because the Commission has invoked the rule inconsistently”); *New Orleans Channel 20, Inc. v. FCC*, 830 F.2d 361, 366 (D.C. Cir. 1987) (noting the “importance of treating parties alike . . . when the agency vacillates without reason in its application of a statute or the implementing regulations”); *McElroy Elec. Corp. v. FCC*, 990 F.2d 1351, 1365 (1993) (reminding the Commission “of the importance of treating similarly situated parties alike or providing an adequate justification for disparate treatment”).

**VI. Conclusion**

For all of these reasons, the Commission should deny the Merger Applications unless it conditions their grant as described above.

Respectfully submitted,

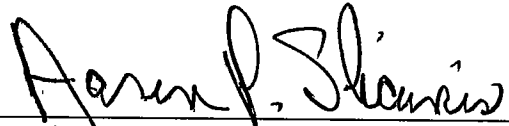
**CHATHAM AVALON PARK  
COMMUNITY COUNCIL**

Vernon Ford, Jr., Esq.  
3234 W. Washington St.  
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*Of Counsel*

August 11, 2008

By: \_\_\_\_\_



Aaron Shainis, Esq.  
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**EXHIBIT 1**

**AFFIDAVIT OF KEITH O. TATE,  
PRESIDENT  
CHATHAM AVALON PARK COMMUNITY COUNCIL**

Before the  
**FEDERAL COMMUNICATIONS COMMISSION**  
Washington, DC 20554

In the Matter of	)	
	)	
Verizon Wireless and	)	WT Docket No. 08-95
Atlantis Holdings, LLC	)	
	)	DA 08-1481
Applications to Transfer Licenses,	)	
Spectrum Manager and <i>De Facto</i> Transfer	)	ISP-PDR-20080613-00012
Lease Arrangements and Authorizations	)	
and Request for Declaratory Ruling on	)	
Foreign Ownership	)	
To: The Secretary		

**AFFIDAVIT OF KEITH O. TATE,  
PRESIDENT  
CHATHAM AVALON PARK COMMUNITY COUNCIL**

Keith O. Tate hereby submits this declaration, pursuant to Section 1.16 of the Commission's rules, 47 C.F.R. § 1.16 with the understanding that this declaration will be submitted to the Federal Communications Commission (the "Commission") in connection with a petition to deny the applications of Verizon Wireless and Atlantis Holdings, LLC, for Commission consent to the merger of Verizon Wireless with ALLTEL Wireless and its affiliates.

1. I am the President of Chatham Avalon Park Community Council (CAPCC). CAPCC is a broad-based grass-roots community membership organization founded in 1955 in Chicago, Illinois, to promote and protect the well-being of Chicago's Chatham Park Avalon Community and the civic growth of Chicago as a whole.
2. Since its founding, CAPCC has been in the forefront of major civic actions and other vital issues in Chicago. CAPCC and its representatives regularly appear before various departments and agencies of Chicago's government to address issues critical to maintaining civic life, promoting effective education, and providing essential services and security to Chicago residents, and promoting social justice and civic betterment. CAPCC joins regularly with other organizations representing Chicago's African-American Community to encourage citizen participation in local political action, and seeks to maintain the reputation of the Chatham Avalon Park Community for beauty, safety, civic action, and excellence.

CAPCC sponsors and works through a network of geographically-defined block clubs covering the whole of the Chatham Avalon Park Community.

3. CAPCC favors economic development and business activity. It believes, however, that increased consolidation of the providers of telecommunications providers, by reducing competition and eliminating smaller and mid-size service providers, has had and will have a deleterious effect upon its members. Members of CAPCC reside in areas in which the combined Verizon Wireless-ALLTEL entity would have a commanding presence.
4. The absence of an adequate competitive spur from years of consolidation, CAPCC believes, causes telecommunications service providers to have less interest in the unique needs and the welfare of the communities they serve and less involvement with the people who live in them. For example, in the Chatham Park Avalon Community, which would be served by the Verizon Wireless-ALLTEL combined entity, neither Verizon Wireless nor ALLTEL have significant presence in terms of customer service centers or storefront operations. They do not have employees in the community, nor do they deal with community businesses in obtaining services for their own business. Because of this lack of involvement and understanding, service to the community suffers. Accordingly, CAPCC opposes the proposed merger unless the Commission imposes conditions its merger consent to require appropriate divestitures and to enhance competition and diversity of ownership in telecommunications services for the benefit of underserved communities such as the Chatham Avalon Park Community and other similarly situated communities in the greater Chicago area and in the proposed Verizon-ALLTEL service area as a whole.
5. In light of its interest in economic development and business activity, CAPCC also is concerned that larger entities have access to sources of capital that are unavailable to smaller businesses and socially disadvantaged businesses. The ability of a company like Verizon Wireless to obtain authorization for its foreign investment without meeting the same requirements that would be applicable to a smaller business or a socially disadvantaged business exacerbates the disadvantages in obtaining capital that already exist in the marketplace. Consequently, it is important to the CAPCC that the Commission ensure that there are no short cuts available to larger companies that are not also available to socially disadvantaged businesses.

I state under penalty of perjury that the foregoing is true and correct to the best of my knowledge. Executed on this 7<sup>th</sup> day of August, 2008.

Keith O. Tate  
Keith O. Tate

**EXHIBIT 2**

**Verizon Wireless Letter Dated April 8, 2008**  
**In Docket No. 07-208**





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April 8, 2008

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**VIA ELECTRONIC FILING**

Ms. Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 Twelfth Street, S.W.  
Washington, DC 20554

Re: Applications of Rural Cellular Corporation and Cellco Partnership d/b/a  
Verizon Wireless for Transfer of Control  
WT Docket No. 07-208; DA 07-4192  
File Nos. ISP-PDR-20070928-00011; OSP-PDR-20070928-00012

Dear Ms. Dortch:

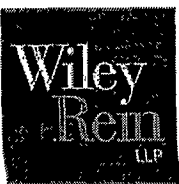
Cellco Partnership d/b/a Verizon Wireless ("Verizon Wireless"), by its attorney, hereby provides additional information regarding its indirect foreign ownership.

As the Commission is aware, Verizon Wireless is a general partnership, of which 45 percent is indirectly owned by Vodafone Group Plc ("Vodafone") and the remaining 55 percent is indirectly owned by Verizon Communications Inc. ("Verizon"). As the Commission has previously recognized, Vodafone is organized under the laws of the United Kingdom, which is a Member of the World Trade Organization ("WTO").<sup>1</sup> In 2000, the Commission allowed Verizon Wireless to "be indirectly owned by Vodafone in an amount up to 65.1 percent" and authorized the transfer and assignment to Verizon Wireless of numerous common carrier licenses.<sup>2</sup> Since

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<sup>1</sup> *Applications of AirTouch Commc'ns, Inc., Transferor, and Vodafone Group, Plc, Transferee, for Consent to Transfer Control of Licenses and Authorizations*, Memorandum Opinion and Order, 14 FCC Rcd 9430, 9434 (¶ 9) (WTB 1999) ("[b]ecause the United Kingdom is a Member of the World Trade Organization (WTO), under the Commission's *Foreign Participation Order*, we presume that the public interest would be served by authorizing, under section 310(b)(4), common carrier radio licenses held by entities indirectly owned by Vodafone and citizens of the United Kingdom."). See also *Applications of Vodafone AirTouch Plc and Bell Atlantic Corporation for Consent to Transfer Control or Assignment of Licenses and Authorizations*, Memorandum Opinion and Order, 15 FCC Rcd 16,507, 16,514 (¶ 18) (WTB/IB 2000) ("*Vodafone-Bell Atlantic Order*") (finding Vodafone's principal place of business continues to be the U.K.).

<sup>2</sup> *Vodafone-Bell Atlantic Order*, 15 FCC Rcd at 16,514 (¶ 19).



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April 8, 2008  
Page 2

the issuance of this ruling in 2000, the Commission has extended this authority on several occasions.<sup>3</sup>

Vodafone is a public limited company. As of February 29, 2008, Vodafone had 53,125,879,401 shares issued and outstanding. For purposes of determining the geographic distribution of the beneficial owners of these shares, Vodafone worked with UBS AG, an investment banking and securities firm and one of the largest global asset managers. On behalf of Vodafone and in connection with producing a share register of fund manager positions in the company, UBS obtained information regarding the beneficial owners of Vodafone shares using information obtained from Vodafone's Registrars and inquiries made pursuant to section 793 of the U.K. Companies Act 2006.<sup>4</sup> Through this process, Vodafone was able to identify the beneficial owners of 96.68 percent of Vodafone's shares. For the beneficial owners of these shares, Vodafone determined each entity's citizenship to be the country identified in the owner's address of record.<sup>5</sup> Further, for the unidentified shares,

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<sup>3</sup> See, e.g., *Int'l Authorizations Granted*, Public Notice, DA 08-790 (Apr. 3, 2008) (grant of authority in File No. ISP-PDR-20080212-0003 for Verizon Wireless' request to extend the existing foreign ownership ruling to Vista (Mirror 1) PCS License Holding, LLC and the common carrier wireless licenses it acquires); *Int'l Authorizations Granted*, Public Notice, 21 FCC Rcd 13,575 (2006) (grant of authority in File No. ISP-PDR-20060619-00015 for Verizon Wireless' request to extend the existing foreign ownership ruling to AWS and other Wireless Communications Services licenses Verizon Wireless may acquire in the future); *Applications of Northcoast Commc'ns, LLC and Cellco P'ship d/b/a Verizon Wireless*, Memorandum Opinion and Order, 18 FCC Rcd 6490, 6492 (¶ 6 & n.15) (Commercial Wireless Div. 2003) (finding that Vodafone's interest "ha[d] been previously approved by the Commission under section 310(b)(4)" and because "no changes have occurred in Verizon Wireless' foreign ownership since . . . these rulings[,] the applications raise no new foreign ownership issues").

<sup>4</sup> The Companies Act 2006 (available at [http://www.opsi.gov.uk/ACTS/acts2006/pdf/ukpga\\_20060046\\_en.pdf](http://www.opsi.gov.uk/ACTS/acts2006/pdf/ukpga_20060046_en.pdf), and its predecessor, the Companies Act 1985) gives public companies the right (not an obligation) to investigate who has interests in its shares. Under separate regulations (the Disclosure and Transparency Rules), an investor who acquires voting rights over 3% or more of a public company's shares must disclose that fact to the company, which itself then must notify such interests to the stock market via a regulatory news announcement.

<sup>5</sup> This approach of determining citizenship of a publicly traded company's shareholders based upon the address of record of each beneficial owner is similar to that taken by Mobile Satellite Ventures Subsidiary LLC in its recent petition for declaratory ruling approved by the Commission. See *Petition for Declaratory Ruling of Mobile Satellite Ventures Subsidiary LLC*, File No. ISP-PDR-20070314-00004, at 13, n.41 & 14, n.44 (filed Mar. 14, 2007); see also *In the Matter of Mobile Satellite Ventures Subsidiary LLC and SkyTerra Commc'ns, Inc.*, Order and Declaratory Ruling,



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April 8, 2008

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Vodafone determined citizenship by extrapolating the citizenship allocation of the identified shares.<sup>6</sup> Based upon the information obtained from UBS and the methodology just discussed, Vodafone determined that, as of February 29, 2008, approximately 54.21 percent of its shares were beneficially owned by citizens of the United Kingdom and 31.24 percent by citizens of the United States. Collectively, these numbers indicate that approximately 14.55 percent of Vodafone's shares are beneficially owned by citizens of neither the U.K. nor the U.S.<sup>7</sup> Further, the information obtained by Vodafone indicates that this 14.55 percent of the company's shares is overwhelmingly held in WTO countries.<sup>8</sup>

Verizon is a publicly traded company organized under the laws of the United States. As of March 3, 2008, Verizon had 2,850,629,251 shares issued and outstanding, of

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(Continued . . .)

FCC 08-77 (Mar. 7, 2008). This method provides a reasonable basis for determining citizenship. Especially given the very large number of Vodafone shares outstanding and the company's numerous shareholders, the instances where an owner's address of record might differ from its citizenship is likely to be insignificant. This method is thus more likely to yield accurate citizenship information than a citizenship survey of only a small portion of a company's shares – one option the International Bureau has noted might be used to determine a publicly traded company's foreign ownership for purposes of Section 310(b). See *Foreign Ownership Guidelines for FCC Common Carrier and Aeronautical Licenses*, 19 FCC Rcd 22,612, 22,642 (2004).

<sup>6</sup> Pro-rating the relatively small number of unidentified shares based upon the citizenship allocation of the over 51 billion identified shares is a reasonable method for approximating the citizenship of the holders of the unidentified shares. This is especially true as these shares are unidentified precisely because their owners hold the stock in relatively small amounts (under the level for which UBS collects information). The unidentified shares are thus likely owned by a very large group of entities, whose citizenship likely mirrors the beneficial owners of the larger number of identified shares.

<sup>7</sup> This information is consistent with the geographic distribution of shares reported in Vodafone's most recent annual report filed with the U.S. Securities and Exchange Commission. That report indicated that, as of March 2007, approximately 56.02 percent of Vodafone's shares were held in the U.K., 30.60 percent in North America, 12.38 percent in Europe (excluding the U.K.), and 1 percent in the rest of the world. Vodafone Group Public Limited Company, SEC Form 20-5, Annual Report for the Fiscal Year ended Mar. 31, 2007, at 152 (under Geographical analysis of shareholders section heading) (*available at* [http://www.vodafone.com/etc/medialib/attachments/agm\\_2007.Par.44006.File.tmp/b52625\\_20F\\_1.pdf](http://www.vodafone.com/etc/medialib/attachments/agm_2007.Par.44006.File.tmp/b52625_20F_1.pdf)).

<sup>8</sup> Based upon the information obtained from UBS, less than 0.02 percent of Vodafone's shares have beneficial owners with addresses of record in non-WTO countries.



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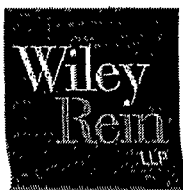
which 332,542,759 shares were held by registered shareholders and the remaining shares were held through brokerage accounts (otherwise known as "street name"). With respect to the registered shareholders, Verizon determined each entity's citizenship based upon each shareholder's address of record.<sup>9</sup> This information indicates that, as of the above date, 99.58 percent of these shares (331,139,104 shares) were held by U.S. citizens and 0.42 percent (1,403,655 shares) were held by non-U.S. citizens. With respect to Verizon shares that are held in street name, Verizon obtained from Broadridge Financial Solutions, Inc. ("Broadridge"), a firm specializing in securities processing, clearing and outsourcing, and in investor communications, aggregate information regarding the addresses of record of the beneficial owners. In the ordinary course, Broadridge collects and maintains this information for the purpose of sending proxy and other correspondence to beneficial owners of Verizon shares who hold their shares in street name or through a nominee.<sup>10</sup> Again, Verizon's determination of the citizenship of each of these beneficial owners was based upon the owner's address listed in Broadridge's records. The information obtained from Broadridge indicates that 90.26 percent of these shares (2,272,860,045 shares) were held by U.S. citizens and 9.74 percent (245,226,447 shares) were held by non-U.S. citizens. Collectively, these numbers (which account for all Verizon shares) and the methodology discussed above indicate that approximately 8.65 percent of Verizon's shares are directly or beneficially owned by non-U.S. citizens.

Based on the above analysis, Verizon Wireless' current foreign ownership remains consistent with the foreign ownership ruling issued by the Commission in the *Vodafone-Bell Atlantic Order*. Accordingly, the above-captioned transaction raises no new foreign ownership issues and the Commission can and should extend the previous Section 310(b)(4) ruling to the licenses/authorizations and licensees/authorization holders included in the pending Applications.

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<sup>9</sup> See note 5, *supra*, for justification of this methodology.

<sup>10</sup> To the extent that any shares are held by a nominee, Broadridge obtains the beneficial owner information from the nominee.



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Please direct any questions about this matter to the undersigned.

Respectfully submitted,

*/s/ Nancy J. Victory*

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**EXHIBIT 3****Areas with 95 MHz or Greater Overlap**

The information in this chart is excerpted from the Verizon Wireless Application, Exhibit 4.

<b>County</b>	<b>ST</b>	<b>CMA</b>	<b>MTA</b>	<b>BTA</b>	<b>EA</b>	<b>REA</b>	<b>Total</b>
Chippewa	MN	488	12	477	107	3	144
Kandiyohi	MN	488	12	477	107	3	144
Lac qui Parle	MN	489	12	464	107	3	144
Lincoln	MN	489	12	477	107	3	144
Lyon	MN	489	12	477	107	3	144
Renville	MN	488	12	477	107	3	144
Yellow Medicine	MN	489	12	477	107	3	144
Cottonwood	MN	490	12	481	107	3	139
Murray	MN	490	12	481	107	3	139
Big Horn	MT	531	42	41	144	6	139
Carbon	MT	531	42	41	144	6	139
Rosebud	MT	531	42	41	144	6	139
Stillwater	MT	529	42	41	144	6	139
Sweet Grass	MT	529	42	41	144	6	139
Treasure	MT	531	42	41	144	6	139
Yellowstone	MT	268	42	41	144	6	139
Clay	MN	221	12	138	113	3	137
Cass	ND	221	12	138	113	3	137
Traill	ND	582	12	138	110	3	137
Madison	MT	530	42	64	144	6	134
Cass	TX	658	7	443	127	5	134
Clark	SD	637	12	464	116	3	132
Codington	SD	637	12	464	116	3	132
Deuel	SD	637	12	464	116	3	132
Grant	SD	637	12	464	116	3	132
Hamlin	SD	637	12	464	116	3	132
Roberts	SD	637	12	464	116	3	132
Nobles	MN	490	12	481	107	3	129
Cascade	MT	297	42	171	145	6	129
Fergus	MT	529	42	171	145	6	129
Gallatin	MT	530	42	53	144	6	129
Park	MT	530	42	53	144	6	129
Red River	TX	658	7	341	127	5	129
Mahnomen	MN	483	12	138	113	3	127
Norman	MN	483	12	138	113	3	127
Pipestone	MN	490	12	481	116	3	127
Polk	MN	276	12	166	110	3	127

County	ST	CMA	MTA	BTA	EA	REA	Total
Custer	MT	532	42	41	144	6	127
Dawson	MT	526	42	41	144	6	127
Prairie	MT	532	42	41	144	6	127
Barnes	ND	582	12	138	113	3	127
Dickey	ND	582	12	138	113	3	127
Eddy	ND	584	12	138	110	3	127
Foster	ND	584	12	138	113	3	127
Grand Forks	ND	276	12	166	110	3	127
Griggs	ND	582	12	138	113	3	127
LaMoure	ND	582	12	138	113	3	127
Ransom	ND	582	12	138	113	3	127
Richland	ND	582	12	138	113	3	127
Sargent	ND	582	12	138	113	3	127
Steele	ND	582	12	138	110	3	127
Stutsman	ND	584	12	138	113	3	127
Lincoln	CO	352	22	110	141	5	126
Clearwater	MN	483	12	37	107	3	124
Camp	TX	658	7	260	127	5	124
Franklin	TX	658	7	101	127	5	124
Morris	TX	658	7	260	127	5	124
Titus	TX	658	7	101	127	5	124
Broadwater	MT	528	42	188	146	6	122
Deer Lodge	MT	528	42	64	146	6	122
Jefferson	MT	528	42	188	146	6	122
Lewis and Clark	MT	527	42	188	146	6	122
Powell	MT	527	42	64	146	6	122
Silver Bow	MT	528	42	64	146	6	122
Brown	SD	636	12	1	114	3	122
Campbell	SD	635	12	1	114	3	122
Corson	SD	635	12	1	112	3	122
Day	SD	637	12	1	114	3	122
Dewey	SD	635	12	1	114	3	122
Edmunds	SD	636	12	1	114	3	122
Faulk	SD	636	12	1	114	3	122
Marshall	SD	637	12	1	114	3	122
McPherson	SD	636	12	1	114	3	122
Potter	SD	635	12	1	114	3	122
Spink	SD	636	12	1	114	3	122
Walworth	SD	635	12	1	114	3	122
Ziebach	SD	635	12	1	114	3	122
Cooke	TX	657	7	101	127	5	121
Palo Pinto	TX	657	7	101	127	5	121

County	ST	CMA	MTA	BTA	EA	REA	Total
Freeborn	MN	491	12	378	107	3	119
Jackson	MN	490	12	481	107	3	119
Dodge	MN	492	12	378	106	3	117
Kittson	MN	482	12	166	110	3	117
Lake of the Woods	MN	483	12	166	110	3	117
Marshall	MN	482	12	166	110	3	117
Pennington	MN	482	12	166	110	3	117
Red Lake	MN	482	12	166	110	3	117
Rock	MN	490	12	481	116	3	117
Roseau	MN	482	12	166	110	3	117
Wabasha	MN	492	12	378	106	3	117
Chouteau	MT	524	42	171	145	6	117
Granite	MT	527	42	300	146	6	117
Hill	MT	524	42	171	145	6	117
Lake	MT	523	42	300	146	6	117
Mineral	MT	527	42	300	146	6	117
Missoula	MT	527	42	300	146	6	117
Pondera	MT	523	42	171	145	6	117
Ravalli	MT	527	42	300	146	6	117
Teton	MT	523	42	171	145	6	117
Toole	MT	524	42	171	145	6	117
Benson	ND	581	12	166	110	3	117
Cavalier	ND	581	12	166	110	3	117
Nelson	ND	582	12	166	110	3	117
Pembina	ND	582	12	166	110	3	117
Ramsey	ND	581	12	166	110	3	117
Towner	ND	581	12	166	110	3	117
Walsh	ND	582	12	166	110	3	117
Chaffee	CO	351	22	110	141	5	116
Kit Carson	CO	352	22	110	141	5	116
Lake	CO	351	22	110	141	5	116
Park	CO	351	22	110	141	5	116
Brown	MN	490	12	277	107	3	114
McLeod	MN	488	12	298	107	3	114
Meeker	MN	488	12	298	107	3	114
Redwood	MN	489	12	277	107	3	114
Sibley	MN	488	12	277	107	3	114
Durham	NC	71	6	368	19	2	114
Gaston	NC	61	6	74	23	2	114
Mecklenburg	NC	61	6	74	23	2	114
Orange	NC	71	6	368	19	2	114
Union	NC	61	6	74	23	2	114



County	ST	CMA	MTA	BTA	EA	REA	Total
Wake	NC	71	6	368	19	2	114
Butte	SD	634	22	369	115	5	114
Harding	SD	634	22	369	115	5	114
Lawrence	SD	634	22	369	115	5	114
Meade	SD	289	22	369	115	5	114
Pennington	SD	289	22	369	115	5	114
Perkins	SD	634	22	369	115	5	114
Armstrong	TX	653	7	13	138	5	114
Carson	TX	653	7	13	138	5	114
Collingsworth	TX	653	7	13	138	5	114
Donley	TX	653	7	13	138	5	114
Gray	TX	653	7	13	138	5	114
Hansford	TX	653	7	13	138	5	114
Hemphill	TX	653	7	13	138	5	114
Hutchinson	TX	653	7	13	138	5	114
Lipscomb	TX	653	7	13	138	5	114
Ochiltree	TX	653	7	13	138	5	114
Potter	TX	188	7	13	138	5	114
Randall	TX	188	7	13	138	5	114
Roberts	TX	653	7	13	138	5	114
Wheeler	TX	653	7	13	138	5	114
Crook	WY	719	22	369	143	5	114
Weston	WY	719	22	369	143	5	114
Camden	GA	382	37	212	29	2	112
Flathead	MT	523	42	224	146	6	112
Cumberland	NC	149	6	141	22	2	112
Scotland	NC	569	6	141	22	2	112
Adams	ND	583	12	45	115	5	112
Burleigh	ND	298	12	45	112	3	112
Emmons	ND	584	12	45	112	3	112
Grant	ND	583	12	45	112	3	112
Kidder	ND	584	12	45	112	3	112
Logan	ND	584	12	45	112	3	112
McIntosh	ND	584	12	45	112	3	112
Mercer	ND	583	12	45	112	3	112
Morton	ND	298	12	45	112	3	112
Oliver	ND	583	12	45	112	3	112
Sheridan	ND	584	12	45	113	3	112
Sioux	ND	583	12	45	112	3	112
Lincoln	SD	642	12	422	116	3	112
Minnehaha	SD	267	12	422	116	3	112
Buchanan	VA	681	18	48	47	4	112